

263.060208

RES/cjs

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RUTH CLEEK,

Plaintiff,

V.

SUNRISE SENIOR LIVING, INC., a foreign corporation doing business as CHURCH CREEK,

Defendant.

FILED: DECEMBER 30, 2008

08 CV 7421

JUDGE LEFKOW

MAGISTRATE JUDGE BROWN

BR

NOTICE OF REMOVAL

NOW COMES, the Defendant, SUNRISE SENIOR LIVING, INC., by and through its attorneys, PRETZEL & STOUFFER, CHARTERED, and hereby remove this civil action, case number 08 L 13144 from the Circuit Court of Cook County, County Department, Law Division, State of Illinois, to the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 USC §§1441 and 1332. In support thereof, the Defendant states as follows:

1. This action was filed against the named Defendant in the Circuit Court of Cook County, County Department, Law Division, State of Illinois on November 25, 2008. A copy of the Complaint was served upon the Defendant, Sunrise Senior Living, Inc., on December 9, 2008. This notice is filed within 30 days after service of the Complaint upon these Defendants.
2. At the time the action was commenced, Plaintiff, Ruth Cleek, was a citizen of the State of Illinois.
3. At the time this action was commenced, Defendant, Sunrise Senior Living, Inc., was a corporation organized and existing under the laws of the State of Delaware and with its principal place of business in the state of Virginia. However, Sunrise Senior Living, Inc. was

not involved in the care of Ms. Cleek and was improperly named as a defendant.

4. The proper Defendants are Sunrise Senior Living Services, Inc. and Sunrise Continuing Care, LLC.
5. Sunrise Senior Living Services, Inc. was the manager of the facility, and employed all those providing care to Ms. Cleek.
6. Sunrise Senior Living Services, Inc. is a Delaware Corporation with its principal place of business in Virginia.
7. Sunrise Continuing Care, LLC was the licensee for the facility.
8. Sunrise Continuing Care, LLC, a Delaware limited liability company, has one member, which is Sunrise Senior Living Services, Inc.
9. Since the statute of limitations has not expired, the Defendant's attorneys have prepared a stipulation for plaintiff to execute to remove Sunrise Senior Living, Inc. as a defendant and to add the proper Defendants.
10. The amount in controversy could exceed \$75,000.00, exclusive of interest and costs. Plaintiff contends that Defendants' alleged negligence caused her to suffer significant personal injury, namely a hip fracture, physical and mental pain, and that as a result, she is unable to conduct her normal daily affairs of life and has had to expend large sums of money for her medical care and other related expenses. Based on this information, there is a good faith basis to assert that the amount in controversy exceeds the jurisdictional amount.
11. The United States District Courts have original jurisdiction for this civil action under 28 USC §1332.
12. This Notice of Removal is filed in the United States District Court for the Northern District of Illinois, Eastern Division, which is the district and division in which the State action is

pending.

13. The Defendant has attached to this Notice copies of process and pleadings that have been served upon it.

WHEREFORE, the Defendant, SUNRISE SENIOR LIVING, INC., by and through its attorneys, PRETZEL & STOUFFER, CHARTERED, pray that this cause be removed to the United States District Court for the Northern District of Illinois.

Respectfully submitted,

/s/ Robert E. Sidkey
PRETZEL & STOUFFER, CHARTERED
One South Wacker Drive
Suite 2500
Chicago, IL 60606
Telephone: (312) 578-7489
Fax: (312) 346-8242
rsidkey@pretzel-stouffer.com
Attorney for Defendant

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

088887
Atty. No. 40896

RUTH CLEEK,

Plaintiff,

v.

SUNRISE SENIOR LIVING, INC., a
foreign corporation doing business as
CHURCH CREEK,

Defendant.

NO.

20081013144
CALENDAR/ROOM D
TIME 00:00
PI Other

08 NOV 25 AM 11:35
CIRCUIT COURT OF COOK
COUNTY ILLINOIS
LAW DIVISION
Clerk

COMPLAINT AT LAW

NOW COMES the plaintiff, RUTH CLEEK, by and through her attorneys, DWYER & McDEVITT, LTD., and in support of her complaint at law against the defendant, SUNRISE SENIOR LIVING, INC., a foreign corporation doing business as CHURCH CREEK, hereby states as follows:

1. That on February 5, 2008, and at all times herein relevant, SUNRISE SENIOR LIVING, INC. was a foreign corporation doing business as CHURCH CREEK.
2. That on February 5, 2008, and at all times herein relevant, the Defendant, SUNRISE SENIOR LIVING, INC., doing business as CHURCH CREEK, by and through its agents, servants and/or employees, whether actual or apparent, owned, operated, managed, maintained, and/or controlled a healthcare facility located at 1250 West Central Road in Arlington Heights, Illinois.
3. That on February 5, 2008, and at all times herein relevant, the Defendant, SUNRISE SENIOR LIVING, INC., doing business as CHURCH CREEK, by and through its agents, servants and/or employees, whether actual or apparent, offered nursing home services to

the plaintiff, RUTH CLEEK, and employed various physicians, nurses, and/or other healthcare professionals as its agents, servants, and/or employees in the provision of such services.

4. That on February 5, 2008, and at all times herein relevant, the plaintiff, RUTH CLEEK, was a resident of the healthcare facility owned, operated, managed, maintained and/or controlled by the Defendant, SUNRISE SENIOR LIVING, INC., doing business as CHURCH CREEK, by and through its agents, servants, and/or employees whether actual or apparent.

5. That on February 5, 2008, while a resident at the healthcare facility owned, operated, managed, maintained and/or controlled by the Defendant, SUNRISE SENIOR LIVING, INC., doing business as CHURCH CREEK, the plaintiff, RUTH CLEEK, suffered a fall.

6. That on February 5, 2008, and at all times herein relevant, there existed a duty on the part of the Defendant, SUNRISE SENIOR LIVING, INC., doing business as CHURCH CREEK, by and through its agents, servants, and/or employees, whether actual or apparent, to possess and apply the skill and knowledge of a reasonably well qualified healthcare staff and to treat the plaintiff, RUTH CLEEK, in a manner which equaled or exceeded the applicable standard of care.

7. That in disregarding its duty, the Defendant, SUNRISE SENIOR LIVING, INC., doing business as CHURCH CREEK, by and through its agents, servants, and/or employees, whether actual or apparent, was then and there guilty of one or more or all of the following careless and negligent acts and/or omissions to act:

- (a) Failed to adequately assess RUTH CLEEK'S fall risk status before she fell on February 5, 2008;
- (b) Failed to establish adequate fall precautions for RUTH CLEEK;
- (c) Failed to adequately monitor RUTH CLEEK;
- (d) Failed to immobilize RUTH CLEEK after she had fallen;

- (e) Failed to document the fact that RUTH CLEEK had fallen;
- (f) Failed to obtain appropriate medical care and treatment for RUTH CLEEK after she had fallen;
- (g) Was otherwise careless and negligent in the treatment of RUTH CLEEK after she had fallen on February 5, 2008.

8. That as a direct and proximate result of one or more or all of the aforesaid negligent acts or omissions to act on the part of the Defendant, SUNRISE SENIOR LIVING, INC., doing business as CHURCH CREEK, by and through its agents, servants and/or employees, whether actual or apparent, the plaintiff, RUTH CLEEK, suffered serious personal injury, expended great sums of money in an effort to obtain medical care and treatment, has and will in the future expend sums of money to obtain medical care and treatment, has and will in the future experience disability as a result of the injuries suffered, and, lastly, has and will in the future experience pain, suffering and loss of normal life as a result of the injuries suffered.

WHEREFORE, the plaintiff, RUTH CLEEK, prays this Court to enter judgment in her favor and against the defendant, SUNRISE SENIOR LIVING, INC., doing business as CHURCH CREEK, in an amount exceeding \$50,000.00.


John J. Dwyer, Jr.

John J. Dwyer, Jr.
Dwyer & McDevitt, Ltd.
30 North LaSalle Street
Suite 3900
Chicago, Illinois 60602
(312) 332-0072

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

088887
Atty. No. 40896

RUTH CLEEK,

Plaintiff,

v.

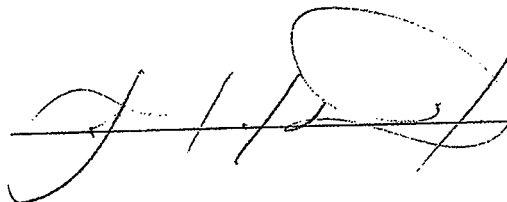
SUNRISE SENIOR LIVING, INC., a
foreign corporation doing business as
CHURCH CREEK,

Defendant.

NO.

AFFIDAVIT PURSUANT TO SUPREME COURT RULE 222(B)

Pursuant to Supreme Court Rule 222(B), counsel for the above-named plaintiff certifies that plaintiff seeks money damages in excess of Fifty Thousand and 00/100ths Dollars (\$50,000.00).



Dwyer & McDevitt, Ltd.
30 North LaSalle Street
Suite 3900
Chicago, Illinois 60602
(312) 332-0072



**Service of Process
Transmittal**

12/09/2008

CT Log Number 514174628



TO: Kim Wilburn
Sunrise Senior Living, Inc.
7902 Westpark Drive, Legal Department
McLean, VA 22102

RE: Process Served in Illinois

FOR: Sunrise Senior Living, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Ruth Cleek, Pltf. vs. Sunrise Senior Living, Inc., etc., Dft.
DOCUMENT(S) SERVED: Summons, Complaint, Affidavit(s)
COURT/AGENCY: Cook County Circuit Court - County Department - Law Division, IL
Case # 2008L013144
NATURE OF ACTION: Personal Injury - Slip/Trip and Fall - 02/05/08
ON WHOM PROCESS WAS SERVED: C T Corporation System, Chicago, IL
DATE AND HOUR OF SERVICE: By Process Server on 12/09/2008 at 09:00
APPEARANCE OR ANSWER DUE: Within 30 days after service, not counting the day of service
ATTORNEY(S) / SENDER(S): John J. Dwyer, Jr.
Dwyer & McDevitt, Ltd.
30 North LaSalle Street
Suite 3900
Chicago, IL 60602
312-332-0072
ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day , 790631991594
Image SOP
Email Notification, Kim Wilburn kimberly.wilburn@sunriseseniorliving.com
Email Notification, Michael Stein michael.stein@sunriseseniorliving.com
Email Notification, Helen Wilson helen.wilson@sunriseseniorliving.com
SIGNED: C T Corporation System
PER: Lourdes Vina
ADDRESS: 208 South LaSalle Street
Suite 814
Chicago, IL 60604
TELEPHONE: 312-345-4336

CERTIFICATE OF SERVICE

A copy of the **Defendant's Notice of Removal**, was filed electronically this 30th **day of December**, 2008. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the court's electronic system.

ATTORNEY FOR PLAINTIFF

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Facsimile: (312) 332-4198

Respectfully submitted,

/s/Robert E. Sidkey
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rsidkey@pretzel-stouffer.com
Attorney for Defendant